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Control

(C) a backseamed seal in the second lay-flat side of the bag, the backseamed seal running the length of the bag, wherein the bag comprises a first film and the patch comprises a second film, and the backseamed seal is through the first film but not through the second film and the patch does not extend to the backseamed seal;

wherein the patch does not cover the bottom of the bag, the patch does not extend to the bottom seal, and the bottom seal is through the bag and not through the patch, and the patch covers more than 50 percent across the width of each of the lay-flat sides of the bag.

REMARKS

I. The Pending Claims and the Amendments to the Claims

Applicants note that with the entry of the above amendments, Claims 1-7, 18, 20, and 22-35 are pending (of which only Claims 1, 18, and 20 are independent claims), each of these claims being directed to a patch bag. Claims 8-17, 19, and 21 have been withdrawn from consideration as directed to a non-elected invention.

✓ The amendment of Claims 1 and 18 by the addition of the recitation that the patch covers more than 50 percent across the width of each of the lay-flat sides of the bag is supported by the specification at, for example, Page 2 lines 8-10, as well as by Figures 1, 2A, 2B, and Figures 3, 4A, 4B, and Figures 11 and 12. No new matter is added by the amendments.

II. Claims 1-7 and 22-25 Are Patentable over BRADY et al in view of WILLIAMS et al

Claims 1-7 and 22-25, as amended above, are patentable over BRADY et al in view of WILLIAMS et al. As amended above, Applicants' independent Claim 1 requires a patch, i.e., a single patch, to cover more than 50 percent across each of the lay-flat sides of the bag, with the patch also covering at least a portion of one side edge of the bag, but with the patch not covering either the bottom seal or the side seal of the bag.

The patch bag of *Figure 1* of BRADY et al differs from Applicants' Claim 1 in several ways. First, each of the patches in Figure 1 are confined to one lay-flat side of the bag. In Figure 1, neither patch provides coverage extending to two lay-flat sides of the bag. Second, the patch bag of Figure 1 of BRADY et al does not have a side seal, as recited in Applicants' Claim 1. Third, patches 30 and 32 in Figure 1 of BRADY et al extend all the way to and past both side edges of the bag.

The patch bag of *Figure 11* of BRADY et al also differs from Applicants' Claim 1 in several ways. First, in the Figure 11 bag the side seal is through the patch and the bag, which is not the case with Applicants' patch bag of Claim 1. Second, the end seal is through the patch and the bag, which also is not the case with Applicants' claimed patch bag of Claim 1.

It should be noted that the Abstract of BRADY et al refers to the patches as "extending completely around the bag". This is a principal objective of the patch bags of Figures 1 and 11 of BRADY et al. Both achieve this objective. To modify the patch bags of Figures 1 and 11 of BRADY et al into the patch bag of Applicants' Claim 1 would be to modify BRADY et al in a manner which would defeat this principal objective of these patch bags. In effect, the teachings of BRADY et al are in a different direction (i.e., patch

coverage all the way around the bag), and hence are teachings which are “away” from the modifications suggested in the Office Action.

To use WILLIAMS et al to modify BRADY et al by re-configuring the patches of BRADY et al so that they each cover a side edge of the bag would leave the patch(es) covering both of the resulting side edges of the bag, contrary to Applicants’ Claim 1, as amended above. Accordingly, BRADY et al in view of WILLIAMS et al do not rise to a prima facie case of obviousness of Claim 1, as amended above.

III. Claims 20 and 33 Are Patentable over WILLIAMS et al

Claims 20 and 33 are patentable over WILLIAMS et al. As stated under heading IV in the Amendment under 37 CFR 1.111 filed January 2, 2001, placing a patch on a lay-flat surface of a seamless tubing followed by inflation of the seamless tubing, deflation of the seamless tubing into a second lay-flat configuration, and conversion of the seamless tubing-patch combination to a side-seal bag by sealing and cutting, results in a patch bag in which the patch has a length which is less than 101% of the length of the bag. WILLIAMS et al does teach or suggest a patch bag in which the patch has a length of from 101-200 percent of the length of the bag. Moreover, WILLIAMS et al does not enable a patch bag in which the patch has a length greater than 100% of the length of the bag. If one of skill in the art was to modify WILLIAMS et al by applying to the seamless lay-flat tubing a patch which is wider than the tubing, adhesive-coated portion(s) of the patch would hang off at least one edge of the lay-flat tubing, causing various problems, such as picking up contamination, adhering to itself and other bags, etc. For this reason, one of skill in the art would not lengthen the patches to the extent that they hung off the

edge of the tubing. Moreover, WILLIAMS does not teach or suggest such a modification.

In contrast, Applicants' bag is *not formed from a seamless tubing*. Rather, it is formed from a flat film, which is folded. WILLIAMS et al does not teach or suggest any manner of making a patch bag which does not use a seamless tubing. Placing a patch on a flat film, the patch being more than 100% of the length of the resulting side-seal bag produced upon folding and sealing, does not result in the problems which would be encountered by applying such longer patches to the lay-flat seamless tubing as disclosed in WILLIAMS et al.

Applicants acknowledge that the above argument immediately above is in part process related, and that the claims are article claims, rather than being process claims. However, the totality of the teachings of WILLIAMS et al cannot be ignored. WILLIAMS et al teaches (and claims) a process for applying patches to a seamless tubing followed by reconfiguring the position of the patches relative to the seal by inflation and deflation into a second lay-flat configuration. Applicant contends that it is error to ignore all the teaching of WILLIAMS et al, and that it is error to simply state that it would have been obvious to change patch location and/or change patch size, without considering how this would impact all of the teaching of WILLIAMS et al. Accordingly, Claims 20 and 33 are patentable over WILLIAMS et al because to modify WILLIAMS et al to arrive at the subject matter of Claims 20 and 33 would be problematic with respect to the method as taught by WILLIAMS et al, for the reasons pointed out above.

IV. Claims 18 and 26-30 Are Patentable over RANDALL in view of BRADY et al

Claims 18 and 26-30, as amended above, are patentable over RANDALL (British 654,460) in view of BRADY et al. Applicants note that Claim 18, as amended on 2 January 2001, recites the patch as not covering the bottom of the bag. Applicants have established, with apparent agreement from the Examiner, that the embodiment of Figures 17, 18, and 19 of RANDALL, together with associated text on Page 8 lines 91-109, discloses patches which cover at least part of the block bottom of the bag. See the arguments under heading "II" in the Amendment filed 2 January 2001. The anticipation rejection of Claim 18 over RANDALL was withdrawn after the "uncovered bag bottom" amendment and argument were made on 2 January 2001.

In the 2 March office action, Claim 18 is rejected as obvious over RANDALL in view of BRADY et al. RANDALL discloses reinforcing preselected parts of the completed bag, *including the bottom of a bag*, by applying one or more inserts to the bag. To modify RANDALL with BRADY et al so that the bag of RANDALL does not have a reinforced bottom would be to prepare an embodiment which appears to be inconsistent with RANDALL taken as a whole. Applicants contend that it is improper to modify a reference in a manner inconsistent with its teachings. Moreover, the Office Action fails to point to a particular teaching in RANDALL which does not include reinforcing the bag bottom. As such, Applicants contend that no prima facie case of obviousness has been made out so long the rejection fails to point out any portion of RANDALL which calls for a reinforced bag lacking reinforcement on the bottom of the bag, as recited in Applicants' Claim 18. As Claims 26-30 depend upon Claim 18, the same arguments apply to them, too.

V. Claims 31, 32, 34, and 35 Are Patentable over BRADY et al in view of WILLIAMS et al

Claims 31, 32, 34, and 35 are patentable over BRADY et al in view of WILLIAMS et al. At the outset, it should be noted that each of Claims 31, 32, 34, and 35 depend from Claim 20. Under heading III above, Claim 20 was argued as being nonobvious over WILLIAMS et al because WILLIAMS et al does not teach, suggest, or enable a patch having a length which is from 101 to 200 percent of the length of the bag. Moreover, BRADY et al also does not teach, suggest, or enable a patch having a length which is 101 to 200 percent of the length of the bag. Since neither the primary reference nor the secondary reference teaches or suggests a patch having a length from 101 to 200 percent of the length of the bag, no prima facie case of obviousness is established by BRADY et al in view of WILLIAMS et al.

VI. Conclusion

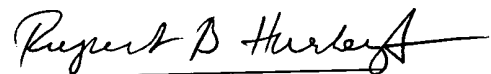
Reconsideration of the patentability of the pending claims is respectfully requested, in view of the amendments and arguments set forth above.

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DATE

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APPENDIX

1. (Four Times Amended) A patch bag comprising a bag and a patch, wherein:

(A) the bag has an open top, a bottom seal, and a side-seal at a first side edge of the bag; and

(B) the patch covers a portion of a seamless second side edge of the bag and at least a portion of both a first lay-flat side of the bag and a second lay-flat side of the bag;

wherein the bag comprises a first film and the patch comprises a second film, and the side-seal is through the first film but not through the second film and the patch does not extend to either the bottom seal or the side seal, and the patch covers more than 50 percent across the width of each of the lay-flat sides of the bag.

18. (Three Times Amended) A patch bag, comprising:

(A) a lay-flat bag having an open top, a bottom seal, a first lay-flat side, a second lay-flat side, a seamless first side edge, and a seamless second side edge;

(B) a patch covering:

(i) across an entirety of a width of the first lay-flat side of the bag;

(ii) a portion of the seamless first side edge; and

(iii) a portion of the seamless second side edge; and

(C) a backseamed seal in the second lay-flat side of the bag, the backseamed seal running the length of the bag, wherein the bag comprises a first film and the patch comprises a second film, and the backseamed seal is through the first film but not through the second film and the patch does not extend to the backseamed seal;

wherein the patch does not cover the bottom of the bag, the patch does not extend to the bottom seal, and the bottom seal is through the bag and not through the patch, and the patch covers more than 50 percent across the width of each of the lay-flat sides of the bag.